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SERVICE DATE - APRIL 9, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34458]

The Kansas City Southern Railway Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant non-exclusive overhead trackage rights to The Kansas City Southern Railway Company (KCS) over a portion of BNSF's railroad, on BNSF's Fort Worth subdivision between milepost 386.80 near Metro Junction, Denton County, TX, and BNSF's Red Rock subdivision milepost 479.81 near Davis, Murray County, OK, a total distance of approximately 93.01 miles.

The transaction was scheduled to be consummated on or after March 29, 2004, the effective date of the exemption (7 days after the notice was filed).

The purpose of the trackage rights is to allow KCS to handle its own non-revenue, company material ballast trains, using its own power and crews, over the subject trackage to and from the ballast facility operated by Martin Marietta near Davis. The trackage rights are overhead rights only and KCS has no right to: (1) set out, pick up or store cars, or switch upon the subject trackage, or any part thereof, except as necessary for handling equipment that is bad ordered en route; (2) handle any traffic other than KCS company material ballast trains;

(3) serve any industry, team or house track now existing or constructed in the future along the subject trackage; or (4) permit or admit any third party to the use of all or any portion of the subject trackage.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34458, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: April 2 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary